

The House Special Committee on Access to the Civil Justice System offers the following substitute to HB 1101:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 provide for requirements of insurers upon information requests by claimants; to require
3 certain notices and disclosures to claimants and insureds; to provide for a private cause of
4 action for unfair trade practices; to remove a provision related to private causes of action; to
5 provide for related matters; to provide for an effective date and applicability; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
10 revising Code Section 33-3-28, relating to request by claimant for information as to name of
11 insurer, name of each insured, and limits of coverage, as follows:

12 "33-3-28.

13 (a)(+) Every insurer providing liability or casualty insurance coverage in this state and
14 which is or may be liable to pay all or a part of any claim shall provide, ~~within 60 days of~~
15 ~~receiving a written request from the claimant,~~ prior to making a settlement offer or
16 contemporaneous with making a settlement offer, a claimant or claimant's agent the
17 following information or within 30 days of receiving, by certified mail or statutory
18 overnight delivery, a written request from the claimant or claimant's agent for information
19 which shall include a statement under oath setting forth the specific nature of the claim or
20 claims asserted, and the following information:

21 (1) A a statement, under oath, of a corporate officer or the insurer's claims manager
22 stating with regard to each known applicable policy of insurance ~~issued by it~~, including
23 excess or umbrella insurance, ~~the name of the insurer, the name of each insured, and the~~
24 ~~limits of coverage. Such insurer may provide a copy of the declaration page of each such~~
25 ~~policy in lieu of providing such information. The claimant's request shall set forth under~~

26 ~~oath the specific nature of the claim asserted and shall be mailed to the insurer by~~
 27 ~~certified mail or statutory overnight delivery.;~~

28 (A) Name of the insurer;

29 (B) Name of each insured; and

30 (C) Limits of coverage, including, but not limited to, time limitations;

31 provided, however, that the insurer may additionally provide a copy of the declaration
 32 page of each policy if the declaration page provides such information as otherwise
 33 provided in this paragraph; and

34 ~~(2) The insured, within 30 days of receiving a written request from a claimant or the~~
 35 ~~claimant's attorney, shall disclose to the claimant or his attorney the name of each known~~
 36 ~~insurer which may be liable to the claimant upon such claim.~~

37 (2) The following statement which shall reference the policy number and claim number:
 38 'You may seek representation by an attorney to ensure that your interests are protected
 39 during this claim process.' Such statement shall be prepared in at least 12 point Arial font
 40 and shall appear at the top of such written notification at least two inches apart from any
 41 other text within such notification.

42 (b) Within 30 days of receiving a request from a claimant as provided for in subsection (a)
 43 of this Code section, every insurer providing liability or casualty insurance coverage in this
 44 state and which is or may be liable to pay all or a part of any claim shall provide the
 45 insured or insured's agent, in at least 12 point Arial font and placed at least two inches apart
 46 from any other text, a written notice stating the following:

47 'You may seek representation by an attorney to ensure that your interests are protected
 48 during this claim process.

49 We, your insurer, are required to treat your financial interests as at least equal to that
 50 of our own financial interests. However, this could create a conflict between the
 51 financial interests of you (the insured) and our own (the insurer). Therefore, you may
 52 seek to be represented by an attorney who is not provided by us, regardless of whether
 53 we provide or offer to provide an attorney to you. You may also seek redress in the
 54 courts of this state regarding the claim asserted and any claims arising under the law.

55 Please know that pursuant to Code Section 9-3-30 actions for damage to property must
 56 generally be brought within four years after the right of action accrues.

57 Please know that pursuant to Code Section 9-3-33 actions for injuries to a person must
 58 generally be brought within two years after the right of action accrues, except for
 59 injuries to the reputation, which must be brought within one year after the right of

60 action accrues, and except for actions for injuries to a person involving loss of
 61 consortium, which must be brought within four years after the right of action accrues.'

62 (c) An insurer's failure to comply with subsection (a) or (b) of this Code section shall give
 63 rise to a claim of bad faith.

64 ~~(b)~~(d) If the request provided in subsection (a) of this Code section contains information
 65 insufficient to allow compliance, the insurer or insured upon whom the request was made
 66 may so state in writing, stating specifically what additional information is needed, and such
 67 compliance shall constitute compliance with this Code section.

68 ~~(c)~~(e) The information provided to a claimant or ~~his attorney~~ claimant's agent as required
 69 by subsection (a) of this Code section shall not create a waiver of any defenses to coverage
 70 available to the insurer and shall not be admissible in evidence unless otherwise admissible
 71 under Georgia law.

72 ~~(d)~~(f) The information provided to a claimant or ~~his attorney~~ claimant's agent as required
 73 by subsection (a) of this Code section shall be amended upon the discovery of facts
 74 inconsistent with or in addition to the information provided."

75 **SECTION 2.**

76 Said title is further amended by repealing in its entirety Code Section 33-6-37, relating to
 77 private cause of action not created or implied.

78 **SECTION 3.**

79 This Act shall become effective on January 1, 2021, and shall apply to any claim which
 80 accrues on or after said date.

81 **SECTION 4.**

82 All laws and parts of laws in conflict with this Act are repealed.